



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, August 10, 2011

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:02 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Van Pearlberg to give the invocation.

PLEDGE OF ALLEGIANCE:

Council member Pearlberg called upon members of the Boy Scout Troop numbers 422 and 540 to lead the pledge of allegiance.

PRESENTATIONS:

20110714

Georgia Association of Chiefs of Police Recognition

The Georgia Association of Chiefs of Police (GACP) presented an Award of Excellence to the Marietta Police Department's gun safety seminar for the public.

Presented

20110722 Recognition of Fleet Maintenance

Fleet Equipment Magazine named Marietta's internal program to maintain its vehicles one of the top 100 in the country for the seventh year in a row.

This matter was Presented

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****UNSCHEDULED APPEARANCES:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Tumlin called upon Mayor Pro tem, Johnny Sinclair, to preside over this portion of the meeting. Mayor Pro tem Sinclair briefly explained the consent agenda process. The following amendments were made to the consent agenda:

A motion was made by Council member King, seconded by Council member Lewis, to add two items to the consent agenda regarding property acquisition located at 1018/1024/1032 Roswell Street, owned by Marcelo Reyes by means of eminent domain and 962 Roswell Street in exchange for \$50,000 from Song, Kyung J & Ko Hee for the purpose of Roswell Street Improvements. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
(See agenda items 20110753 and 20110754)

Mayor Pro tem Sinclair opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

-under City Council Appointments: Agenda item 20110700 was removed from the agenda.

A motion was made by Council member Lewis, seconded by Council member King, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved

MINUTES:*** 20110704 Regular Meeting - July 13, 2011**

Review and approval of the July 13, 2011 regular Meeting Minutes

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110705 Special Meeting - July 27, 2011**

Review and approval of the July 27, 2011 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:***** 20110700 Planning Commission Appointment**

Appointment of William "Bill" Hagemann to the Planning Commission (Ward 2) for a term of three years, expiring on August 10, 2014.

Removed

*** 20110652 Marietta Museum of History Re-appointments**

Request for approval of a recommendation by the Museum of History Board to reappoint Thomas McBrayer, Alice Summerour, Guy H. Northcutt Jr., Harry Lembeck and Danna Kaye to the Board of Directors for 3-year terms.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

ORDINANCES:**20110516 Z2011-09 Glenn F. & Bernardine W. Drake 155 Montgomery Street****[Ord 7547](#)**

Z2011-09 [REZONING] GLENN F. & BERNARDINE W. DRAKE request rezoning for property located in Land Lot 11450, District 16, Parcel 0060, 2nd Section, Marietta, Cobb County, Georgia and being known as 155 Montgomery Street from R-3 (Single Family Residential 3 units/acre) to R-4 (Single Family Residential 4 units/acre). Ward 5.

Council member Goldstein disclosed that the engineer for this project is and has done work for an entity that he owns and/or for himself.

Council member Chalfant disclosed that he has done business with the engineer for this project.

Mayor Tumlin opened the public hearing. City Attorney Douglas Haynie explained the rules of order and swore in those wishing to speak.

Development Services Director Brian Binzer presented information regarding the rezoning request for property located at 155 Montgomery Street from R-3 (Single Family Residential 3 units/acre) to R-4 (Single Family Residential 4 units/acre) to develop a four (4) lot subdivision on the existing 1.03 acre parcel. The following stipulations were agreed upon and variances requested:

- 1. The existing 8 ft. white picket privacy fence currently located along a portion of the western (Drake/Panetta) property line will be extended along the entire western property line to the right of way of Montgomery Street. A new 8 ft. white picket privacy fence, which will match the fence that currently runs along the western (Drake/Panetta) property line, shall be constructed along the entire northern (Yustat/Drake) property line to the right of way of Harold Street.*
- 2. Applicant will meet with Public Works staff to determine if a retention/detention pond is necessary. If deemed necessary, it will be located away from the northwestern corner of the property, if possible. If changes need to occur, this matter will be discussed between the Mr. Drake, Yustats, Mr. Panetta, and the City of Marietta Public Works Departments. However, compliance with all City and State regulations is required.*
- 3. The garages will be in compliance with all City of Marietta codes; and each garage will have similar color and façade material as the principle structure.*
- 4. One row of trees will be planted along the northern and western property lines. This buffer will consist of a single row of trees of a minimum of 2" caliber and will include crape myrtles and bald cypress trees. Due to the mix of tree species within the buffer, the city arborist will determine spacing requirements.*
- 5. The developer will hire an arborist to determine the health of all remaining trees and the impact on the remaining trees from the proposed plans. The developer will follow the recommendation of the arborist as well as meet the current tree ordinance. The City Arborist shall review every tree 12 inches or greater, where there is no conflict with a new structure and the tree is determined to be healthy, and shall incorporate best practices for the tree save areas prior to and during land disturbance activities.*
- 6. The houses will be LEED [Leadership in Energy and Environmental Design] certified.*
- 7. The houses will be constructed in compliance with all codes.*
- 8. The houses that will be built will be one of the attached plans (see attached renderings):*

<i>a. Ansel</i>	<i>b. Henry David</i>	<i>c. Hudson</i>
<i>d. Dillard</i>	<i>e. Watkins</i>	<i>f. Emerson</i>
<i>g. Hayek House</i>	<i>h. Gifford</i>	<i>i. Hampton Roads</i>
- 9. The square footage of the homes will be a minimum of 1800 square feet.*

1. A variance to increase the maximum height of a fence along a side yard from 4 ft. to 8 ft.
2. A variance to reduce the required lot width for lot 1 from 75 ft. to 73.98 ft.
3. A variance to reduce the required lot width for lot 2 from 75 ft. to 72.69 ft.
4. A variance to reduce the required lot width for lot 3 from 75 ft. to 70.19 ft.
5. A variance to reduce the required lot width for lot 4 from 75 ft. to 74.57 ft.

A motion was made by Council member Coleman, seconded by Council member King, that this matter be Approved as Stipulated. The motion was approved by the following vote:

Vote 6 - 1 - 0 **Approved**
Voting Against: Van Pearlberg

* **20110602**

Z2011-10 75 Property Partners, LLC and 1345 Canton, LLC, 1335 Canton Road and 1345 Canton Road

[Ord 7548](#)

Z2011-10 [REZONING] 75 PROPERTY PARTNERS, LLC AND 1345 CANTON, LLC request rezoning for property located in Land Lot 09270 AND 08740, District 16, Parcels 0160 and 0510, 2nd Section, Marietta, Cobb County, Georgia and being known as 1335 Canton Road and 1345 Canton Road from CRC (Community Retail Commercial) and LI (Light Industrial) to OI (Office Institutional). Ward 6.

1. The following variances shall be for the current developed property only, and shall be discontinued upon the redevelopment of the site (subject to Section 706 Nonconforming Uses):

- Variance to allow the current trees and landscaping conditions satisfy the requirements of Section 712.08 until the site is redeveloped.(Variance for all parcels)

Parcel 1 (1335 Canton Road)

- Does not require any variances.

Parcel 2 (1339 Canton Road)

- Variance to increase the allowable impervious surface coverage from 80% to 81.7%.

Parcel 3 (1337 Canton Road)

- Variance to reduce the required parking from 60 spaces to 48 spaces.
- Variance to increase the allowable impervious surface coverage from 80% to 86.8%.
- Variance to reduce the required landscaped area from 15% to 12.4%.

Parcel 4 (1341 Canton Road)

- Variance to increase the allowable impervious surface from 80% to 86.5%.
- Variance to reduce the required landscaped from 15% to 13.5%.

Parcel 5 (1343 Canton Road)

- Variance to increase the allowable impervious surface coverage from 80% to 85.3%.
- Variance to reduce the required landscaped area from 15% to 14.7%.
- Variance to reduce the side yard setback from 15 feet to 10 feet.

2. Formation of an owner's association to take care of landscaping which was addressed by the applicant, and that there be a common easement for parking and access so that no building owner would have any control over access and parking.

3. The drainage situation be reviewed with the Public Works Department and if the Public Works Department has any objections to the current situation that they be resolved.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* 20110661

CA2011-05 Amendment to the Comprehensive Development Code regarding Signs

[Ord 7550](#)

CA2011-05 [Code Amendment] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 714.03 Signs exempt from permit regulations; Section 714.06 Prohibited Signs; Section 714.08 Downtown Marietta Sign District; Section 714.09 Definitions; and Section 724.02 Definition of terms.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

* 20110721

Denial of Claim

Denial of claim of Kelvin T. Cook

This Matter was Approved to Deny on the Consent Agenda.

Vote: 7 - 0 - 0

Approved to Deny

* 20110736

Denial of Claim

Denial of the claim of Leshundria Driver.

This Matter was Approved to Deny on the Consent Agenda.

Vote: 7 - 0 - 0

Approved to Deny

* **20110737 Denial of Claim**

Denial of the claim of Lori Nelson.

This Matter was Approved to Deny on the Consent Agenda.

Vote: 7 - 0 – 0 Approved to Deny

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

2. Finance/Investment: Annette Lewis, Chairperson

* **20110650 Donation to the Tree Preservation Fund by Mountain Motorsports**

[Ord 7549](#)

Approval of an Ordinance amending the Fiscal Year 2012 Tree Preservation Fund budget to receive and appropriate a \$9,387.40 donation from Mountain Motorsports.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20110595 Resolution for Bishop Chandler David Owens**

Approval of a Resolution to maintain Olive Street as the street name but to memorialize Olive Street from Roswell Street to Chester Street, as “Bishop Chandler D. Owens Memorial Way”.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110606 Wellstar Health Systems - Tower Road Streetscape**

Motion to revise stipulations attached to a variance approved on July 11, 2007, that eliminated the 10' landscape strip along Tower Road; and to approve the revised Tower Road Streetscape plan by Bilson and Associates, dated June 8, 2011. In addition, since the placement of underground utilities across Tower Road near the corner of Church Street will only allow the planting of 18 of the required 23 trees, the applicant agrees to work with staff to identify the appropriate location to plant the remaining 5 trees.

The applicant agrees to comply with all other stipulations, which shall remain in effect.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110600 Meeting Rules and Procedures of Council**

Approval of a Resolution establishing rules, policies and procedures for the Mayor and City Council of the City of Marietta.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110701 Sunday Alcohol Sales**

Motion to direct staff to take the appropriate action to place the calling of a referendum to allow the citizens of Marietta, Georgia to vote on whether to authorize retailers to sell by package, malt, beverages, wine and distilled spirits on Sundays between the hours of 12:30 p.m. and 11:30 p.m. Provided, however, that no referendum to conduct this vote shall be called at a time which would not coincide with another vote being conducted by the City of Marietta. Once staff determines a likely date for this referendum, the matter shall be brought back to the Mayor and Council for adoption of a formal resolution calling for the vote, adoption of a resolution and contract appointing the Cobb County Board of Elections and Registration to conduct the election and any other necessary and proper contract, notice or document in order to carry out the intent of this motion.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

* **20110656 Art in the Park Street Closure Request**

Motion amending the temporary street closures for the Art In The Park event to include E. Park Square from S. Park Square to N. Park Square and Cherokee St. from N. Park Square to Dobbs Street beginning 6:30 PM Friday, September 2, 2011 and continuing until 9:30 PM Monday, September 5, 2011.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

* **20110676 Property Casualty/Miscellaneous Coverage**

Motion approving the property casualty and other miscellaneous coverage, premiums and companies utilized for the policy period of August 17, 2011 to August 16, 2012 as follows:

1. Trident/Argonaut through Arthur J. Gallagher Risk Management Services as Brokers for the following coverage's: GL, Law, Public Officials [City & BLW], Property, Flood, Earthquake, Terrorism, Inland Marine, Boiler & Machinery, Public Employee Blanket Crime.
2. New York Marine and General Insurance Company, through AMTrust as Brokers for Excess Workers' Compensation.
3. Chubb Insurance Co. through Arthur J. Gallagher Risk Management Services as Brokers for Fiduciary Responsibility, and other various Public Officials' Bonds.
4. Travelers Casualty & Surety, through Arthur J. Gallagher Risk Management Services as Broker for the BLW Pole Attachment Bond for Bell South Telecommunication, Inc. if necessary to renew.

Council member Goldstein disclosed that he does business and personal banking with BB&T.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

* **20110664 Keith School Lane at Dorsey Manor**

Motion to convert the four spaces on Keith School Lane closest to Haynes Street to public parking with two hour parking restriction.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110665 LCI Project Application**

Resolution confirming the City of Marietta's commitment to implement the LCI Project and provide the matching funds and authorization for staff to submit an LCI application for the Roswell Street Streetscape project between Barnes Street and Victory Drive.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

APPEARANCES:

OTHER BUSINESS:

* **20110733 Ad Hoc Redistricting Committee**

Motion for an action to establish a Marietta City Council Ad Hoc Redistricting Committee for the purpose of recommending to Council a Ward redistricting plan subject to the 2010 Census and all applicable laws and considerations. The committee shall be comprised of three (3) council members and each shall be appointed by the City Council.

The Redistricting Committee shall:

- (1) have its first meeting on or before October 15, 2011 upon call by the Mayor.
- (2) Elect a Chair as its first order of business
- (3) Meet as necessary with meetings as called by the Committee Chair
- (4) Be assisted by City Manager and City Attorney or their designees
- (5) Develop a balanced redistricting plan in compliance with the Georgia and United States Constitutions to submit to Council for review and to be placed on the City Council agenda in order to conduct two public hearings in accordance with O.C.G.A. § 36-35-4.1.
- (6) request a liaison from the Marietta City Board of Education who shall serve with voice, but not vote.
- (7) Council Members Annette Lewis, Johnny Sinclair and Anthony Coleman are hereby appointed by council and their appointment to serve on this committee shall terminate upon acceptance by all authorities of such redistricting plan.

(8) Conduct meetings under parliamentary procedure of Roberts Rules of Order and be in compliance with the Georgia Open Meetings Act (50-14-1).

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110731 CDBG Cooperation Agreement**

Motion to approve changes made by HUD to the CDBG Cooperation Agreement to include HOME and ESG programs.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110706 Executive Session Minutes**

Review and approval of the following Executive Session Minutes:
Agenda Review Session - May 11, 2011

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110753 1018/1024/1032 Roswell Street**

Motion to authorize the acquisition of property owned by Marcelo Reyes on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110754 962 Roswell Street**

Motion authorizing acquisition of right-of-way and easements of 962 Roswell Street in exchange for \$50,000 from Song, Kyung J & Ko Hee for the purpose of Roswell Street Improvements with Stipulations in Exhibit B.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110739 BLW Actions of August 8, 2011**

Review and approval of the August 8, 2011 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 7:33 p.m.

Date Approved: September 14, 2011

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk